

Attorney Docket No.: DID-101
Appl. Ser. No.: 10/084,283

PATENT

REMARKS

Applicant submits that the present amendment is fully responsive to the Office Action dated October 25, 2005 and, thus, the application is in condition for allowance.

By this reply, claims 50, 52, 53, 58 and 62 are amended. Claims 29-34, 37-45 and 47 remain withdrawn from consideration at this time. Claims 48, 50 and 52-67 remain pending. Of these, claims 48, 50, 52, 53, 58, 59 and 62 are independent. An expedited review and allowance of the application is respectfully requested.

In the outstanding Office Action, claims 50, 52-54, 57, 58, 62, 63, 66 and 67 were rejected under 35 U.S.C. § 102(b) as being anticipated by Mollenauer (U.S. Pat. No. 6,077,277). It is asserted that Mollenauer discloses a device having an outer tubular body 3 with two jaws 5, 6 and inner elongated member 10, among other alleged features. Thus, it is concluded that Mollenauer anticipates the present invention as recited in the claims. Applicant respectfully traverses.

Neither Mollenauer, nor any other related art of record, alone or in combination, disclose or fairly suggest the present invention as recited in the pending claims. Independent claims 50, 52, 53, 58 and 62 have been presented which clearly and fairly distinguish the present invention from that of the art of record. They have support in the original application and claims as filed and contain no new matter. To the extent that the prior rejection is deemed to be applicable to the newly presented and pending claims, they are respectfully traversed.

The present invention, as recited in the pending claims, discloses a device that includes jaws or a grasping mechanism which has an opening that allows an elongated tube carrying a suture to pass therethrough to soft tissue outside of the jaws or grasping mechanism, respectively. The jaws in Mollenauer have no opening to allow for any suture or any other

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element to leave the confines of the jaws. Once shut, as shown in Figure 5, the jaws in Mollenauer will not allow easy movement of the elongated tube or suture, as in the present invention. Thus, Mollenauer cannot render the present claims as anticipated or obvious. Furthermore, Mollenauer cannot be used in combination with any other related art of record to obviate the present invention as recited in the claims. Hence, the rejected claims should be allowed.

In the outstanding Office Action, claim 58 was rejected under 35 U.S.C. § 102(b) as being anticipated by Jameel (U.S. Pat. No. 5,713,908). It is asserted that Jameel discloses a device having an elongate member 14 with an opening 26 to receive suture and a pointed tip, among other alleged features. Thus, it is concluded that Jameel anticipates the present invention as recited in the claims. Applicant respectfully traverses.

Neither Jameel, nor any other related art of record, alone or in combination, disclose or fairly suggest the present invention as recited in the pending claims. Independent claim 58 has been presented which clearly and fairly distinguishes the present invention from that of the art of record. It has support in the original application and claims as filed and contains no new matter. To the extent that the prior rejection is deemed to be applicable to the newly presented and pending claims, they are respectfully traversed.

The present invention, as recited in the pending claims, discloses a device that includes a grasping mechanism which has an opening that allows an elongated tube carrying a suture to pass therethrough to soft tissue outside of the grasping mechanism. The device taught by Jameel does not have the ability to shut its jaws and allow an elongated tube to pass through an opening therein, as disclosed in the pending claims. In fact, the jaws in Jameel have no opening whatsoever, and any such opening would not be useful for the taught device. Thus, Jameel

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cannot render the present claims as anticipated or obvious. Furthermore, Jameel cannot be used in combination with any other related art of record to obviate the present invention as recited in the claims.


Applicant graciously acknowledges the allowance of claims 48 and 59-61 and the objection to claims 55, 56, 64 and 65. The rest of the currently rejected or objected claims should also be allowed. Currently, claims 48, 50 and 52-67 remain pending in this application.

If any fees are associated with the entering and consideration of this supplemental amendment, please charge such fees to our Deposit Account 50-2882.

As all of the outstanding rejections have been traversed and all of the claims are believed to be in condition for allowance, Applicant respectfully requests issuance of a Notice of Allowance. If the undersigned attorney can assist in any matters regarding examination of this application, Examiner is encouraged to call at the number listed below.

Respectfully submitted,

Date: 2 December 2005


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